

DECISION

11470 GGM
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-194853

DATE: September 21, 1979

MATTER OF: Rust Tractor Company

DLG 02814

DIGEST: ~~Payment may be made to a contractor for repair work to Government equipment even though formal contracting procedures were not followed~~ because Government received the benefit and has specifically ratified the transaction. Appropriation available at time contractor was authorized to and actually performed the repair work should be charged, irrespective of fiscal year in which the transaction was ratified.

AGC 00006 100365
A certifying officer for the Bureau of Indian Affairs (BIA) in Albuquerque, New Mexico, has requested an advance decision from our Office as to whether he may certify a voucher in the amount of \$22,875.36 to pay the Rust Tractor Company (Rust) for its services. He questions the propriety of making such a payment because formal procurement procedures were not followed and the transaction with Rust was not properly authorized.

DLG 02815
Apparently, the instant situation arose as a result of a misunderstanding between personnel at the Ramah-Navajo Agency's Branch of Roads (Agency) and Rust. When repair work was needed for a Caterpillar Scraper, an estimate prepared by Rust was verbally quoted to the agency as \$6,500. The Agency's branch chief authorized Rust to proceed with the repair work. Agency personnel did not realize until receiving Rust's invoices for the work that the quoted estimate was for labor only and did not cover parts. Rust was uncertain when it prepared the estimate what parts would actually be necessary.


The Agency had indicated that it would never have permitted Rust to proceed with the repair work if it had known that the total cost of the work was \$22,875.36, since this amount exceeds its delegated procurement authority. However, the Agency has certified that the cost of repairing the equipment was valid and proper, that the repair work was necessary to place the equipment in operative condition and that the repair work has extended the useful life of the equipment for at least five additional years. The cost of replacing the equipment instead of repairing it would have been three times the total cost of the repair. The Agency also informs us that if proper procurement procedures had been followed, Rust would have received the authorized contract to do the repair work since it was

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the sole source for acquiring the necessary services. Based on these facts, a BIA contracting officer ratified in writing the unauthorized action as required by 41 CFR 1-1.405 and established a contract with Rust in the amount of \$22,875.36 for services rendered. The certifying officer has withheld payment pending our decision as to whether the voucher may be certified.

The proper test to apply in a situation where there is no formal contract is whether the Government has received a benefit from the unauthorized procurement and whether this procurement has been either expressly or impliedly ratified by authorized contracting officials of the Government. RCA Corporation, B-183289, December 3, 1975, 75-2 CPD 369. If the outcome of this test is in the affirmative, then payment may be made for services rendered either under the unauthorized contract on a quantum meruit basis, which means that payment may be made for the reasonable value of work performed, 40 Comp. Gen. 447, 451 (1969), or under the later ratified contract for the contract price.

In the instant situation, the Government received the benefit of the work performed--the repaired equipment--and acknowledged this benefit. The contracting officer has specifically ratified the transaction. Therefore, payment may be made to Rust in the amount agreed to by the contracting officer who ratified the informal procurement. Under 31 U.S.C. §§ 628 and 701 the only proper appropriation to charge for the repair work would be the Fiscal Year 1978 appropriation because the need arose and the work was ordered and performed in that year.


Deputy Comptroller General
of the United States